

**Notice of References Cited**

Application/Control No.

09/415,673

Applicant(s)/Patent Under  
Reexamination  
SCHON, HARTMUT

Examiner

Jennifer A. Leung

Art Unit

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**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-3,679,373	07-1972	Vancamp, Raymond M.	422/146
	B	US-5,700,432	12-1997	Tanaka et al.	422/146
	C	US-3,991,096	11-1976	Bortolini et al.	558/320
	D	US-4,553,502	11-1985	Dreuilhe et al.	122/4D
	E	US-4,593,755	06-1986	Rogers, Jr., Elmer H.	165/145
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

***Response to Arguments***

16. Applicant's arguments with respect to claims 9-16 have been considered but are moot in view of the new ground(s) of rejection.

17. Applicant's arguments filed on November 27, 2002, with respect to claims 1-8, have been fully considered but they are not persuasive.

Applicants argue that, "Frank or Nickerson, even combined, do not disclose, teach or otherwise suggest the COMBINATION of a fluidized-bed reactor for oxychlorination of ethylene, oxygen and HCl which includes a heat exchanger with tube packets in a fluidized bed for releasing heat from an exothermic reaction to a heat-transfer medium in the tube packets and a ring pipe mounted as a distribution or collection chamber on the reactor wall so that the tube packets come into contact with the water distributed via the ring pipe and the steam removed via the ring pipe." (page 8, last paragraph to page 9, first paragraph).

However, using the apparatus of Frank (or the modified apparatus of Frank) to practice the process of oxychlorination merely constitutes intended use, which holds no patentable weight in apparatus claims. Likewise, in the recitation of a heat transfer medium comprising "water/steam", the heat transfer medium is only a matter of intended use. Please note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). Furthermore, a preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a

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structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

In addition, applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Instead, applicants have merely restated claim 1 as their argument. As indicated above, the reference of Frank (as well as the modified apparatus of Frank) comprises substantially the structural limitations recited, and therefore the apparatus structurally meets the claims.

### ***Conclusion***

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Bortolini et al., Dreuilhe et al., Tanaka et al. and Rogers, Jr are provided to illustrate the state of the art of heat exchangers for fluidized bed apparatus.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A. Leung whose telephone number is 703-305-4951. The examiner can normally be reached on 8:30 am - 5:30 pm M-F, every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn A. Caldarola can be reached on 703-308-6824. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Jennifer A. Leung JAL  
February 19, 2003

  
**HIEN TRAN**  
**PRIMARY EXAMINER**